

EXHIBIT A



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File No.: 308729-00004

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October 25, 2018

Via Certified and Regular Mail

Antonio Gutierrez
100 Alexander Way
Edgewater, NJ 07020

Paul Gutierrez
361 Maple Street
Moonachie, NJ 07074

RE: NextGear Capital, Inc. v. The Luxury Haus Inc. et al.
Docket No. BER-L-7268-16

Dear Messrs. Gutierrez:

As you are aware, we represent the plaintiff, NextGear Capital, Inc. ("NextGear") in the above matter. Enclosed, please find a motion for entry of default that we intend to file on behalf of NextGear. Please advise by the close of business on Thursday, November 1, 2018 whether you consent to the relief requested in NextGear's motion.

Thank you.

Very truly yours,

A handwritten signature in dark ink, appearing to be "N. Gaunce", written over a light blue horizontal line.

Nicholas M. Gaunce

NMG/mem
Enclosure

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NEXTGEAR CAPITAL, INC.,

Plaintiff,

v.

ANTONIO L. GUTIERREZ; PAUL
GUTIERREZ,

Defendants.

:
: CIVIL ACTION
:
: CASE NO.: 3:18-cv-01617-MEM
:
: ELECTRONICALLY FILED
: (Judge Mannion)
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PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT

AND NOW COMES the Plaintiff, NextGear Capital, Inc. ("NextGear"), through the undersigned counsel, Eckert, Seamans, Cherin & Mellott, LLC, and requests that the Clerk of Court, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, enter default against the Defendants, Antonio L. Gutierrez and Paul Gutierrez. In support of this request, NextGear relies upon the record in this case and the certification submitted herein.

WHEREFORE, NextGear respectfully requests the entry of default against all defendants.

ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Plaintiff, NextGear Capital, Inc.

By: /s/ Nicholas M. Gaunce
NICHOLAS M. GAUNCE (PA ID 206228)
Eckert, Seamans, Cherin & Mellott, LLC
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Lawrenceville, NJ 08648
Phone: (609) 989-5058
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E-mail: ngaunce@eckertseamans.com

Dated: November 2, 2018

CERTIFICATE OF FILING AND SERVICE

I, Nicholas M. Gaunce, hereby certify that, on this 2nd day of November, 2018, a true and accurate copy of the foregoing Motion for Entry of Default was filed with the Court via the Court's ECF system and served upon the below via certified mail, return receipt requested, and regular mail, as follows:

Antonio L. Gutierrez
100 Alexander Way
Edgewater, New Jersey 07020

-and-

Paul Gutierrez
361 Maple Street
Moonachie, New Jersey 07074

Pursuant to 28 *U.S.C.* § 1746, I certify under penalty of perjury that the foregoing is true and correct.

Dated: November 2, 2018

By: _____
NICHOLAS M. GAUNCE

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NEXTGEAR CAPITAL, INC.,

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ANTONIO L. GUTIERREZ; PAUL
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**CERTIFICATION IN SUPPORT OF PLAINTIFF'S REQUEST FOR ENTRY OF
DEFAULT**

I, Nicholas M. Gaunce, Esq., certify under penalty of perjury that the following facts are true and correct:

1. I am an attorney for the Plaintiff, NextGear Capital, Inc. ("NextGear"), in this action.

2. NextGear commenced this action by filing a complaint in the United States District Court for the Middle District of Pennsylvania on August 16, 2018.

3. On September 28, 2018, NextGear personally served a copy of its complaint and a summons upon the Defendant, Antonio L. Gutierrez. NextGear's proof of service in regards to Defendant, Antonio L. Gutierrez was filed on October 4, 2018 as document number five under the above docket number.

4. On October 1, 2018, NextGear personally served a copy of its complaint and a summons upon the Defendant, Paul Gutierrez. NextGear's proof of service in regards to Defendant, Paul Gutierrez was also filed with the Court on October 4, 2018 as document number six under the above docket number.

5. According to the Federal Rules of Civil Procedure, Defendant, Antonio L. Gutierrez had until October 19, 2018 to file a responsive pleading and/or seek an extension of his responsive pleading deadline.

6. According to the Federal Rules of Civil Procedure, Defendant, Paul Gutierrez had until October 23, 2018 to file a responsive pleading and/or seek an extension of his responsive pleading deadline.

7. As of today's date, no defendant has filed a responsive pleading in the above matter or sought an extension of time to do so. The deadline for the defendants to do so has expired.

8. In light of the defendants' failure to plead or otherwise respond to NextGear's complaint, NextGear respectfully requests the entry of default against all defendants.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.

ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Plaintiff, NextGear Capital, Inc.

By: /s/ Nicholas M. Gaunce
NICHOLAS M. GAUNCE (PA ID 206228)
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E-mail: ngaunce@eckertseamans.com

Dated: November 2, 2018

**IN THE UNITED STATES DISTRICT COURT
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NEXTGEAR CAPITAL, INC.,

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ENTRY OF DEFAULT

IT APPEARING that the complaint of the Plaintiff, NextGear Capital, Inc. (“NextGear”), and a summons, having been duly served upon the Defendants, Antonio L. Gutierrez and Paul Gutierrez (collectively, “Defendants”), Defendants having failed to appear or otherwise plead in response to NextGear’s complaint and/or timely request an extension of their responsive pleadings deadlines, and for other cause shown by NextGear;

THEREFORE, upon request of NextGear, default is hereby entered against the Defendants, Antonio L. Gutierrez and Paul Gutierrez, as provided by Rule 55(a) of the Federal Rules of Civil Procedure.

Date: _____, CLERK

By: _____

**IN THE UNITED STATES DISTRICT COURT
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CERTIFICATE OF NONCONCURRENCE

Pursuant to Local Rule of Civil Procedure 7.1 for the United States District Court for the Middle District of Pennsylvania, the Plaintiff, NextGear Capital, Inc. (“NextGear”), hereby certifies that it sought the concurrence of the Defendants, Antonio L. Gutierrez and Paul Gutierrez, by way of correspondence dated October 25, 2018, to the relief requested in its motion, and no party concurred to the relief requested.

Pursuant to 28 *U.S.C.* § 1746, I certify under penalty of perjury that the foregoing is true and correct.

Date: November 2, 2018

By: _____
NICHOLAS M. GAUNCE